

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ROBERT C. SNYDER,	:	CIVIL NO. 1:CV-01-2077
	:	
Plaintiff	:	
	:	
v.	:	(Judge Rambo)
	:	
COMMISSIONER OF	:	(Magistrate Judge Smyser)
SOCIAL SECURITY,	:	
	:	
Defendant	:	

The Commissioner cites to *Califano v. Sanders*, 430 U.S. 99 (1977) for the rule that a decision not to reopen a previously adjudicated claim for disability benefits is not a “final decision” subject to judicial review. The court held that 42 U.S.C. § 405(g) “cannot be read to authorize judicial review of alleged abuses of agency discretion in refusing to reopen claims for social security benefits.” *Id.* at 108-108.

It appears that exceptions to this may be those cases where a claim may be deemed to have been constructively reopened, *see Coup v. Heckler*, 834 F.2d 313 (3d Cir. 1987); where the Commissioner’s decision is challenged on constitutional grounds, *see Califano v. Sanders*, 430 U.S. 99, 109 (1977); or possibly where the decision not to reopen followed a hearing. *Id.*

The record does not reflect whether any of these exceptions appear in the instant case in order for this court to exercise judicial review. Accordingly, **IT IS HEREBY ORDERED THAT:**

- 1) The court rejects the report of the magistrate judge which recommends this matter be remanded to the Commissioner.
- 2) The captioned action is **DISMISSED**.
- 3) The Clerk of Court shall close the file.

s/Sylvia H. Rambo
SYLVIA H. RAMBO
United States District Judge

Dated: June 15, 2005.